G-Jr

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED
08 JUL 25 AM 10: 15
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES OF AMERICA, Plaintiff, v. **Brittany Ann Lynn MCKENNA (D1)** and **Kristin Amber VIOLA (D2)** Defendants	Magistrate Case No. '08 MJ 2259 COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii)- Bringing in Illegal Aliens Without Presentation

The undersigned complainant being duly sworn states:

On or about **July 23, 2008**, within the Southern District of California, defendant **Brittany Ann Lynn MCKENNA (D1)** and **Kristin Amber VIOLA (D2)**, with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Esmeralda MENDOZA-Lopez**, had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

SIGNATURE OF COMPLAINANT
Alfredo Loperena, Enforcement Officer
U.S. Customs and Border Protection

Sworn to before me and subscribed in my presence, this **25th** day of **July, 2008**.

UNITED STATES MAGISTRATE JUDGE

Gur

PROBABLE CAUSE STATEMENT

The complainant states that **Esmeralda MENDOZA-Lopez** is a citizen of a country other than the United States; that said alien has admitted she is deportable; that her testimony is material; that it is impracticable to secure her attendance at trial by subpoena; and that she is a material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On July 23, 2008, at about 10:19 p.m., **Brittany Ann Lynn MCKENNA (D1)** waited at the vehicle entrance to make application for admission into the United States at the San Ysidro, California Port of Entry as the driver of a 1999 Dodge Neon. Also awaiting to apply for admission was her passenger **Kristin Amber VIOLA (D2).** During pre-primary roving operations, a United States Customs and Border Protection (CBP) Canine Enforcement Officer along with his service human/narcotic detector Dog approached the vehicle D1 and D2 occupied; the service canine instantly alerted to the vehicle. CBP Canine Enforcement Officer took a negative customs declaration from D1. Both D1 and D2 claimed to be United States Citizens. D1 further stated she and D2 traveled to Mexico for the purpose of going to a nightclub. D1 stated she was returning home to Oceanside, California. The CBP Canine Enforcement Officer requested assistance and officers assigned to the Anti-Terrorism Contraband Enforcement Team (AT-CET) responded. Upon their inspection of the vehicle, a modified compartment of the fuel tank was discovered and a human being was observed within. Thereafter, both D1 and D2 were escorted to the security office. The vehicle was driven to secondary for further inspection.

In secondary, further examination of the vehicle revealed one adult female concealed within the fuel tank, located directly underneath the rear seat. Officers assisted in removing the rear seat, exposing and freeing the trapped female. The female was determined to be citizen of Mexico without legal documentation to enter the United States. The undocumented alien was retained as a material witness and is now identified as **Esmeralda MENDOZA-Lopez (Material Witness).**

During a videotaped proceeding, D1 was advised of her Miranda rights and elected to submit to questioning without benefit of counsel. D1 admitted she was aware of the concealed alien inside the vehicle. D1 admitted she agreed to drive and deliver the vehicle to an unknown location in the United States with full knowledge of the concealed alien and her undocumented status.

On a separate videotaped interview, Material Witness declared she is a citizen of Mexico without legal rights to enter the United States. Material Witness stated her uncle made arrangements and agreed to pay an unknown smuggling fee. Material Witness admitted she was unable to extricate herself out of the compartment. Material Witness admitted she was going to Oxnard, California to seek residency and pursue an education. Material Witness admitted she was told by the man who arranged the smuggling that two females were going to smuggle her into the United States.